

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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**MATERIAL YARD WORKERS LOCAL
1175 LIUNA PENSION FUND, et al.,**

Third-Party Plaintiffs,

-against-

RONALD STRACI,

**REPORT AND
RECOMMENDATION
06-CV-2877 (CBA)**

Third-Party Defendant.
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During a conference held today, counsel for third-party plaintiffs and third-party defendant Straci agreed to the dismissal of the pending state law claim(s) against Straci, without prejudice to third-party plaintiffs' right to commence a state court asserting those claims within 30 days of this court's order of dismissal. This agreement arises out of the letters filed with the court by the parties and docketed as documents 68 and 69.

Accordingly, I respectfully recommend that this court enter an order dismissing third-party plaintiffs' claims against third-party defendant Straci without prejudice to third-party plaintiffs' right to commence a state court action asserting those claims within 30 days of this court's order. Any objections to the recommendations made in this Report must be filed with the Clerk of the Court and the Chambers of the Honorable Carol B. Amon within ten days of receiving this Report and Recommendation and, in any event, on or before September 25, 2008. Failure to file timely objections may waive the right to appeal the District Court's Order. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72; *Small v. Secretary of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

**Brooklyn, New York
September 11, 2008**

**Steven M. Gold
United States Magistrate Judge**